



February 3, 1999

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## HOUSE BILL No. 1030

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DIGEST OF HB 1030 (Updated February 2, 1999 3:02 pm - DI 96)

**Citations Affected:** IC 22-3.

**Synopsis:** Worker's compensation for seamen. Provides that the worker's compensation and occupational diseases law applies to seamen on certain riverboats for injuries and disablements occurring after June 30, 1999. Provides that a seaman must file a notice with the worker's compensation board to chose payments to be made under the federal Jones Act exclusively or under worker's compensation and occupational diseases and the Jones Act. Provides that if a seaman chooses payment to be made under worker's compensation and occupational diseases and the Jones Act, the Jones Act payments shall be deducted from the total amount paid to the seaman under the worker's compensation and occupational diseases law.

**Effective:** July 1, 1999.

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### Stilwell, Hasler, Pelath

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January 6, 1999, read first time and referred to Committee on Labor and Employment.  
February 2, 1999, amended, reported — Do Pass.

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HB 1030—LS 6114/DI 96+



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February 3, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1030

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A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 22-3-2-5 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Every employer who is bound  
3 by the compensation provisions of IC 22-3-2 through IC 22-3-6, except  
4 the state, counties, townships, cities, towns, school cities, school towns,  
5 school townships, other municipal corporations, state institutions, state  
6 boards, state commissions, banks, trust companies, ~~and~~ building and  
7 loan associations, **and employers holding an owner's license issued**  
8 **under IC 4-33-6**, shall insure the payment of compensation to the  
9 employer's employees and their dependents in the manner provided in  
10 IC 22-3-3, or procure from the worker's compensation board a  
11 certificate authorizing the employer to carry such risk without  
12 insurance. While such insurance or such certificate remains in force,  
13 the employer or those conducting the employer's business and the  
14 employer's worker's compensation insurance carrier shall be liable to  
15 any employee and the employee's dependents for personal injury or  
16 death by accident arising out of and in the course of employment only

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to the extent and in the manner specified in IC 22-3-2 through IC 22-3-6.

(b) The state may not purchase worker's compensation insurance. The state may establish a program of self-insurance to cover its liability under this article. The state may administer its program of self-insurance or may contract with any private agency, business firm, limited liability company, or corporation to administer any part of the program. The state department of insurance may, in the manner prescribed by IC 4-22-2, adopt the rules necessary to implement the state's program of self-insurance.

(c) **An employer holding an owner's license issued under IC 4-33-6 shall procure a certificate authorizing the employer to carry the risk without insurance from the worker's compensation board. The employer holding a license issued under IC 4-33-6 is liable for payment of disability compensation under IC 22-3-2 through 22-3-6 only when the employee has completed and filed a notice to receive disability compensation under IC 22-3-2 through 22-3-6 in the manner provided in IC 22-3-2-19.1.**

SECTION 2. IC 22-3-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The rights and remedies granted to an employee subject to IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all other rights and remedies of such employee, the employee's personal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury or death, except for **the rights and** remedies available under IC 5-2-6.1 **and section 19.1 of this chapter.**

SECTION 3. IC 22-3-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. **Except as provided in section 19.1 of this chapter,** IC 22-3-2 through IC 22-3-6 shall not apply to employees and employers engaged in interstate or foreign commerce wherein the laws of the United States provide for compensation or for liability for injury or death by accident to such employees.

SECTION 4. IC 22-3-2-19.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19.1. (a) **As used in this section, "Jones Act" refers to the Jones Act (46 U.S.C. 688) and any amendments and regulations related to the Act.**

(b) **As used in this section, "seaman" means an employee:**

(1) **of a riverboat as defined in IC 4-33-2-17 located in a county that is contiguous to:**

(A) **Lake Michigan; or**



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- 1 (B) the Ohio River.
- 2 (2) who is subject to coverage under the Jones Act.
- 3 (c) IC 22-3-2 through IC 22-3-6 apply to seamen for injuries
- 4 occurring after June 30, 1999.
- 5 (d) A disabled seaman or representative must file a notice on a
- 6 form prescribed by the worker's compensation board to receive
- 7 disability compensation:
- 8 (1) exclusively under the Jones Act; or
- 9 (2) under IC 22-3-2 through IC 22-3-6 and the Jones Act.
- 10 (e) A disabled seaman or representative must file the notice in
- 11 prescribed form with the worker's compensation board by
- 12 registered mail postmarked by the thirtieth day of the disability, or
- 13 by personal delivery to any office of the worker's compensation
- 14 board on or before the thirtieth day of the disability. The disabled
- 15 seaman or representative also must notify the employer in the
- 16 manner provided by IC 22-3-3-1(a), unless the employer has actual
- 17 notice of the injury. Compensation shall be paid in the manner
- 18 provided by IC 22-3-3-7. However, compensation shall not be paid
- 19 to the disabled seaman or the seaman's dependents for any days
- 20 earlier than the date the notice is provided to the workers'
- 21 compensation board.
- 22 (f) The payments of disability compensation made under the
- 23 Jones Act to a disabled seaman or the seaman's dependents shall
- 24 be deducted from the total amount to be paid as compensation as
- 25 an award. The deduction shall be made from and credited against
- 26 the total payments as the payments would otherwise be due and
- 27 payable under IC 22-3-2 through IC 22-3-6.
- 28 SECTION 5. IC 22-3-3-1 IS AMENDED TO READ AS FOLLOWS
- 29 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Unless the employer or his
- 30 representative shall have actual knowledge of the occurrence of an
- 31 injury or death at the time thereof or shall acquire such knowledge
- 32 afterward, the injured employee or his dependents, as soon as
- 33 practicable after the injury or death resulting therefrom, shall give
- 34 written notice to the employer of such injury or death.
- 35 (b) Unless such notice is given or knowledge acquired within thirty
- 36 (30) days from the date of the injury or death, no compensation shall be
- 37 paid until and from the date such notice is given or knowledge
- 38 obtained. **Seamen are subject to the notice requirements and**
- 39 **payment restrictions contained in IC 22-3-2-19.1.** No lack of
- 40 knowledge by the employer or his representative, and no want, failure,
- 41 defect or inaccuracy of the notice shall bar compensation, unless the
- 42 employer shall show that he is prejudiced by such lack of knowledge

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or by such want, failure, defect or inaccuracy of the notice, and then only to the extent of such prejudices.

SECTION 6. IC 22-3-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. **Except as provided in section 9.1 of this chapter**, the rights and remedies granted under this chapter to an employee subject to this chapter on account of disablement or death by occupational disease arising out of and in the course of the employment shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such disablement or death.

SECTION 7. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth (8th) day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. **Compensation for seamen shall not be paid for any days earlier than the date of notification received by the worker's compensation board, as provided in IC 22-3-2-19.1.**

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:



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- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(c) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to any employment;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made



1 available to the employee, or if the employee fails or refuses to appear  
 2 for examination by the independent medical examiner, temporary total  
 3 disability benefits may be terminated. If either party disagrees with the  
 4 opinion of the independent medical examiner, the party shall apply to  
 5 the board for a hearing under IC 22-3-4-5.

6 (d) An employer is not required to continue the payment of  
 7 temporary total disability benefits for more than fourteen (14) days  
 8 after the employer's proposed termination date unless the independent  
 9 medical examiner determines that the employee is temporarily disabled  
 10 and unable to return to any employment that the employer has made  
 11 available to the employee.

12 (e) If it is determined that as a result of this section temporary total  
 13 disability benefits were overpaid, the overpayment shall be deducted  
 14 from any benefits due the employee under section 10 of this chapter  
 15 and, if there are no benefits due the employee or the benefits due the  
 16 employee do not equal the amount of the overpayment, the employee  
 17 shall be responsible for paying any overpayment which cannot be  
 18 deducted from benefits due the employee.

19 SECTION 8. IC 22-3-7-9 IS AMENDED TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) As used in this chapter,  
 21 "employer" includes the state and any political subdivision, any  
 22 municipal corporation within the state, any individual or the legal  
 23 representative of a deceased individual, firm, association, limited  
 24 liability company, or corporation or the receiver or trustee of the same,  
 25 using the services of another for pay. If the employer is insured, the  
 26 term includes his insurer so far as applicable. However, the inclusion  
 27 of an employer's insurer within this definition does not allow an  
 28 employer's insurer to avoid payment for services rendered to an  
 29 employee with the approval of the employer.

30 (b) As used in this chapter, "employee" means every person,  
 31 including a minor, in the service of another, under any contract of hire  
 32 or apprenticeship written or implied, except one whose employment is  
 33 both casual and not in the usual course of the trade, business,  
 34 occupation, or profession of the employer. For purposes of this chapter  
 35 the following apply:

36 (1) Any reference to an employee who has suffered disablement,  
 37 when the employee is dead, also includes his legal representative,  
 38 dependents, and other persons to whom compensation may be  
 39 payable.

40 (2) An owner of a sole proprietorship may elect to include himself  
 41 as an employee under this chapter if he is actually engaged in the  
 42 proprietorship business. If the owner makes this election, he must



1 serve upon his insurance carrier and upon the board written notice  
 2 of the election. No owner of a sole proprietorship may be  
 3 considered an employee under this chapter unless the notice has  
 4 been received. If the owner of a sole proprietorship is an  
 5 independent contractor in the construction trades and does not  
 6 make the election provided under this subdivision, the owner  
 7 must obtain an affidavit of exemption under IC 22-3-7-34.5.

8 (3) A partner in a partnership may elect to include himself as an  
 9 employee under this chapter if he is actually engaged in the  
 10 partnership business. If a partner makes this election, he must  
 11 serve upon his insurance carrier and upon the board written notice  
 12 of the election. No partner may be considered an employee under  
 13 this chapter until the notice has been received. If a partner in a  
 14 partnership is an independent contractor in the construction trades  
 15 and does not make the election provided under this subdivision,  
 16 the partner must obtain an affidavit of exemption under  
 17 IC 22-3-7-34.5.

18 (4) Real estate professionals are not employees under this chapter  
 19 if:

20 (A) they are licensed real estate agents;

21 (B) substantially all their remuneration is directly related to  
 22 sales volume and not the number of hours worked; and

23 (C) they have written agreements with real estate brokers  
 24 stating that they are not to be treated as employees for tax  
 25 purposes.

26 (5) A person is an independent contractor in the construction  
 27 trades and not an employee under this chapter if the person is an  
 28 independent contractor under the guidelines of the United States  
 29 Internal Revenue Service.

30 (6) An owner-operator that provides a motor vehicle and the  
 31 services of a driver under a written contract that is subject to  
 32 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
 33 carrier is not an employee of the motor carrier for purposes of this  
 34 chapter. The owner-operator may elect to be covered and have the  
 35 owner-operator's drivers covered under a worker's compensation  
 36 insurance policy or authorized self-insurance that insures the  
 37 motor carrier if the owner-operator pays the premiums as  
 38 requested by the motor carrier. An election by an owner-operator  
 39 under this subdivision does not terminate the independent  
 40 contractor status of the owner-operator for any purpose other than  
 41 the purpose of this subdivision.

42 (c) As used in this chapter, "minor" means an individual who has

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not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, his parents, his personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to **the following:**

- (1) Casual laborers as defined in subsection (b). ~~nor to~~
- (2) Farm or agricultural employees. ~~nor to~~
- (3) Household employees. ~~nor to~~
- (4) Railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto. ~~nor to their~~
- (5) Employers with respect to ~~these~~ **the** employees **listed in subdivision (4). Also,**
- (6) **Except as provided in section 9.1 of this chapter, this chapter does not apply to** employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom he claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.



(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of his occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to his employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or



(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 9. IC 22-3-7-9.1 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 1999]: Sec. 9.1. (a) As used in this section, "Jones Act" refers to  
3 the Jones Act (46 U.S.C. 688) and any amendments and regulations  
4 related to the Act.

5 (b) As used in this section, "seaman" means an employee:

6 (1) of a riverboat as defined in IC 4-33-2-17 located in a  
7 county that is contiguous to:

8 (A) Lake Michigan; or

9 (B) the Ohio River.

10 (2) who is subject to coverage under the Jones Act.

11 (c) This chapter applies to seamen for disablements occurring  
12 after June 30, 1999.

13 (d) A disabled seaman or representative must file a notice on a  
14 form prescribed by the worker's compensation board to receive  
15 disability compensation:

16 (1) exclusively under the Jones Act; or

17 (2) under IC 22-3-7 and the Jones Act.

18 This notice shall be filed contemporaneously with any notice filed  
19 under IC 22-3-7-30.

20 (e) A disabled seaman or representative must file the notice in  
21 prescribed form with the worker's compensation board by  
22 registered mail postmarked by the thirtieth day of the disability, or  
23 by personal delivery to any office of the worker's compensation  
24 board on or before the thirtieth day of the disability. The disabled  
25 seaman or representative also must notify the employer in the  
26 manner provided by IC 22-3-7-32, unless the employer has actual  
27 notice of the injury. Compensation shall be paid in the manner  
28 provided by IC 22-3-7. However, compensation shall not be paid to  
29 the disabled seaman or the seaman's dependents for any days  
30 earlier than the date the notice is provided to the workers'  
31 compensation board.

32 (f) The payments of disability compensation made under the  
33 Jones Act to a disabled seaman or the seaman's dependents shall  
34 be deducted from the total amount to be paid as compensation as  
35 an award. The deduction shall be made from and credited against  
36 the total payments as the payments would otherwise be due and  
37 payable under this chapter.

38 SECTION 10. IC 22-3-7-16 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) **Subject to the**  
40 **exception for seamen as provided in IC 22-3-7-9.1**, compensation  
41 shall be allowed on account of disablement from occupational disease  
42 resulting in only temporary total disability to work or temporary partial



1 disability to work beginning with the eighth day of such disability  
 2 except for the medical benefits provided for in section 17 of this  
 3 chapter. Compensation shall be allowed for the first seven (7) calendar  
 4 days only as provided in this section. The first weekly installment of  
 5 compensation for temporary disability is due fourteen (14) days after  
 6 the disability begins. Not later than fifteen (15) days from the date that  
 7 the first installment of compensation is due, the employer or the  
 8 employer's insurance carrier shall tender to the employee or to the  
 9 employee's dependents, with all compensation due, a properly prepared  
 10 compensation agreement in a form prescribed by the board. Whenever  
 11 an employer or the employer's insurance carrier denies or is not able to  
 12 determine liability to pay compensation or benefits, the employer or the  
 13 employer's insurance carrier shall notify the worker's compensation  
 14 board and the employee in writing on a form prescribed by the worker's  
 15 compensation board not later than thirty (30) days after the employer's  
 16 knowledge of the claimed disablement. If a determination of liability  
 17 cannot be made within thirty (30) days, the worker's compensation  
 18 board may approve an additional thirty (30) days upon a written request  
 19 of the employer or the employer's insurance carrier that sets forth the  
 20 reasons that the determination could not be made within thirty (30)  
 21 days and states the facts or circumstances that are necessary to  
 22 determine liability within the additional thirty (30) days. More than  
 23 thirty (30) days of additional time may be approved by the worker's  
 24 compensation board upon the filing of a petition by the employer or the  
 25 employer's insurance carrier that sets forth:

- 26 (1) the extraordinary circumstances that have precluded a
- 27 determination of liability within the initial sixty (60) days;
- 28 (2) the status of the investigation on the date the petition is filed;
- 29 (3) the facts or circumstances that are necessary to make a
- 30 determination; and
- 31 (4) a timetable for the completion of the remaining investigation.

32 An employer who fails to comply with this section is subject to a civil  
 33 penalty of fifty dollars (\$50), to be assessed and collected by the board  
 34 upon notice and hearing. Civil penalties collected under this section  
 35 shall be deposited in the state general fund.

36 (b) Once begun, temporary total disability benefits may not be  
 37 terminated by the employer unless:

- 38 (1) the employee has returned to work;
- 39 (2) the employee has died;
- 40 (3) the employee has refused to undergo a medical examination
- 41 under section 20 of this chapter;
- 42 (4) the employee has received five hundred (500) weeks of



1 temporary total disability benefits or has been paid the maximum  
2 compensation allowable under section 19 of this chapter; or  
3 (5) the employee is unable or unavailable to work for reasons  
4 unrelated to the compensable disease.

5 In all other cases the employer must notify the employee in writing of  
6 the employer's intent to terminate the payment of temporary total  
7 disability benefits, and of the availability of employment, if any, on a  
8 form approved by the board. If the employee disagrees with the  
9 proposed termination, the employee must give written notice of  
10 disagreement to the board and the employer within seven (7) days after  
11 receipt of the notice of intent to terminate benefits. If the board and  
12 employer do not receive a notice of disagreement under this section,  
13 the employee's temporary total disability benefits shall be terminated.  
14 Upon receipt of the notice of disagreement, the board shall immediately  
15 contact the parties, which may be by telephone or other means and  
16 attempt to resolve the disagreement. If the board is unable to resolve  
17 the disagreement within ten (10) days of receipt of the notice of  
18 disagreement, the board shall immediately arrange for an evaluation of  
19 the employee by an independent medical examiner. The independent  
20 medical examiner shall be selected by mutual agreement of the parties  
21 or, if the parties are unable to agree, appointed by the board under  
22 IC 22-3-4-11. If the independent medical examiner determines that the  
23 employee is no longer temporarily disabled or is still temporarily  
24 disabled but can return to employment that the employer has made  
25 available to the employee, or if the employee fails or refuses to appear  
26 for examination by the independent medical examiner, temporary total  
27 disability benefits may be terminated. If either party disagrees with the  
28 opinion of the independent medical examiner, the party shall apply to  
29 the board for a hearing under section 27 of this chapter.

30 (c) An employer is not required to continue the payment of  
31 temporary total disability benefits for more than fourteen (14) days  
32 after the employer's proposed termination date unless the independent  
33 medical examiner determines that the employee is temporarily disabled  
34 and unable to return to any employment that the employer has made  
35 available to the employee.

36 (d) If it is determined that as a result of this section temporary total  
37 disability benefits were overpaid, the overpayment shall be deducted  
38 from any benefits due the employee under this section and, if there are  
39 no benefits due the employee or the benefits due the employee do not  
40 equal the amount of the overpayment, the employee shall be  
41 responsible for paying any overpayment which cannot be deducted  
42 from benefits due the employee.



1 (e) For disablements occurring on and after April 1, 1951, and prior  
2 to July 1, 1971, from occupational disease resulting in temporary total  
3 disability for any work there shall be paid to the disabled employee  
4 during such temporary total disability a weekly compensation equal to  
5 sixty percent (60%) of the employee's average weekly wages for a  
6 period not to exceed five hundred (500) weeks. Compensation shall be  
7 allowed for the first seven (7) calendar days only if the disability  
8 continues for longer than twenty-eight (28) days.

9 For disablements occurring on and after July 1, 1971, and prior to  
10 July 1, 1974, from occupational disease resulting in temporary total  
11 disability for any work there shall be paid to the disabled employee  
12 during such temporary total disability a weekly compensation equal to  
13 sixty percent (60%) of the employee's average weekly wages, as  
14 defined in section 19 of this chapter, for a period not to exceed five  
15 hundred (500) weeks. Compensation shall be allowed for the first seven  
16 (7) calendar days only if the disability continues for longer than  
17 twenty-eight (28) days.

18 For disablements occurring on and after July 1, 1974, and before  
19 July 1, 1976, from occupational disease resulting in temporary total  
20 disability for any work there shall be paid to the disabled employee  
21 during such temporary total disability a weekly compensation equal to  
22 sixty-six and two-thirds percent (66 2/3%) of the employee's average  
23 weekly wages, up to one hundred thirty-five dollars (\$135) average  
24 weekly wages, as defined in section 19 of this chapter, for a period not  
25 to exceed five hundred (500) weeks. Compensation shall be allowed for  
26 the first seven (7) calendar days only if the disability continues for  
27 longer than twenty-one (21) days.

28 For disablements occurring on and after July 1, 1976, from  
29 occupational disease resulting in temporary total disability for any work  
30 there shall be paid to the disabled employee during the temporary total  
31 disability weekly compensation equal to sixty-six and two-thirds  
32 percent (66 2/3%) of the employee's average weekly wages, as defined  
33 in section 19 of this chapter, for a period not to exceed five hundred  
34 (500) weeks. Compensation shall be allowed for the first seven (7)  
35 calendar days only if the disability continues for longer than twenty-one  
36 (21) days.

37 (f) For disablements occurring on and after April 1, 1951, and prior  
38 to July 1, 1971, from occupational disease resulting in temporary  
39 partial disability for work there shall be paid to the disabled employee  
40 during such disability a weekly compensation equal to sixty percent  
41 (60%) of the difference between the employee's average weekly wages  
42 and the weekly wages at which the employee is actually employed after

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1 the disablement, for a period not to exceed three hundred (300) weeks.  
2 Compensation shall be allowed for the first seven (7) calendar days  
3 only if the disability continues for longer than twenty-eight (28) days.  
4 In case of partial disability after the period of temporary total disability,  
5 the later period shall be included as part of the maximum period  
6 allowed for partial disability.

7 For disablements occurring on and after July 1, 1971, and prior to  
8 July 1, 1974, from occupational disease resulting in temporary partial  
9 disability for work there shall be paid to the disabled employee during  
10 such disability a weekly compensation equal to sixty percent (60%) of  
11 the difference between the employee's average weekly wages, as  
12 defined in section 19 of this chapter, and the weekly wages at which the  
13 employee is actually employed after the disablement, for a period not  
14 to exceed three hundred (300) weeks. Compensation shall be allowed  
15 for the first seven (7) calendar days only if the disability continues for  
16 longer than twenty-eight (28) days. In case of partial disability after the  
17 period of temporary total disability, the latter period shall be included  
18 as a part of the maximum period allowed for partial disability.

19 For disablements occurring on and after July 1, 1974, from  
20 occupational disease resulting in temporary partial disability for work  
21 there shall be paid to the disabled employee during such disability a  
22 weekly compensation equal to sixty-six and two-thirds percent (66  
23 2/3%) of the difference between the employee's average weekly wages,  
24 as defined in section 19 of this chapter, and the weekly wages at which  
25 he is actually employed after the disablement, for a period not to  
26 exceed three hundred (300) weeks. Compensation shall be allowed for  
27 the first seven (7) calendar days only if the disability continues for  
28 longer than twenty-one (21) days. In case of partial disability after the  
29 period of temporary total disability, the latter period shall be included  
30 as a part of the maximum period allowed for partial disability.

31 (g) For disabilities occurring on and after April 1, 1951, and prior  
32 to April 1, 1955, from occupational disease in the following schedule,  
33 the employee shall receive in lieu of all other compensation, on account  
34 of such disabilities, a weekly compensation of sixty percent (60%) of  
35 the employee's average weekly wage; for disabilities occurring on and  
36 after April 1, 1955, and prior to July 1, 1971, from occupational disease  
37 in the following schedule, the employee shall receive in addition to  
38 disability benefits not exceeding twenty-six (26) weeks on account of  
39 said occupational disease a weekly compensation of sixty percent  
40 (60%) of the employee's average weekly wages.

41 For disabilities occurring on and after July 1, 1971, and before July  
42 1, 1977, from occupational disease in the following schedule, the

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employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of his average weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

- (1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second



1 finger, thirty-five (35) weeks; of the third or ring finger, thirty  
 2 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the  
 3 hand by separation below the elbow, two hundred (200) weeks; of  
 4 the arm above the elbow joint, two hundred fifty (250) weeks; of  
 5 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;  
 6 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)  
 7 weeks; of the fifth or little toe, ten (10) weeks; of the foot below  
 8 the knee joint, one hundred fifty (150) weeks; and of the leg  
 9 above the knee joint, two hundred (200) weeks. The loss of more  
 10 than one (1) phalange of a thumb or toe shall be considered as the  
 11 loss of the entire thumb or toe. The loss of more than two (2)  
 12 phalanges of a finger shall be considered as the loss of the entire  
 13 finger. The loss of not more than one (1) phalange of a thumb or  
 14 toe shall be considered as the loss of one-half (1/2) of the thumb  
 15 or toe and compensation shall be paid for one-half (1/2) of the  
 16 period for the loss of the entire thumb or toe. The loss of not more  
 17 than two (2) phalanges of a finger shall be considered as the loss  
 18 of one-half (1/2) the finger and compensation shall be paid for  
 19 one-half (1/2) of the period for the loss of the entire finger.  
 20 (2) Loss of Use: The total permanent loss of the use of an arm,  
 21 hand, thumb, finger, leg, foot, toe, or phalange shall be considered  
 22 as the equivalent of the loss by separation of the arm, hand,  
 23 thumb, finger, leg, foot, toe, or phalange and the compensation  
 24 shall be paid for the same period as for the loss thereof by  
 25 separation.  
 26 (3) Partial Loss of Use: For the permanent partial loss of the use  
 27 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,  
 28 compensation shall be paid for the proportionate loss of the use of  
 29 such arm, hand, thumb, finger, leg, foot, toe, or phalange.  
 30 (4) For disablements for occupational disease resulting in total  
 31 permanent disability, five hundred (500) weeks.  
 32 (5) For the loss of both hands, or both feet, or the total sight of  
 33 both eyes, or any two (2) of such losses resulting from the same  
 34 disablement by occupational disease, five hundred (500) weeks.  
 35 (6) For the permanent and complete loss of vision by enucleation  
 36 of an eye or its reduction to one-tenth (1/10) of normal vision with  
 37 glasses, one hundred fifty (150) weeks, and for any other  
 38 permanent reduction of the sight of an eye, compensation shall be  
 39 paid for a period proportionate to the degree of such permanent  
 40 reduction without correction or glasses. However, when such  
 41 permanent reduction without correction or glasses would result in  
 42 one hundred percent (100%) loss of vision, but correction or



1 glasses would result in restoration of vision, then compensation  
 2 shall be paid for fifty percent (50%) of such total loss of vision  
 3 without glasses plus an additional amount equal to the  
 4 proportionate amount of such reduction with glasses, not to  
 5 exceed an additional fifty percent (50%).

6 (7) For the permanent and complete loss of hearing, two hundred  
 7 (200) weeks.

8 (8) In all other cases of permanent partial impairment,  
 9 compensation proportionate to the degree of such permanent  
 10 partial impairment, in the discretion of the worker's compensation  
 11 board, not exceeding five hundred (500) weeks.

12 (9) In all cases of permanent disfigurement, which may impair the  
 13 future usefulness or opportunities of the employee, compensation  
 14 in the discretion of the worker's compensation board, not  
 15 exceeding two hundred (200) weeks, except that no compensation  
 16 shall be payable under this paragraph where compensation shall  
 17 be payable under subdivisions (1) through (8). Where  
 18 compensation for temporary total disability has been paid, this  
 19 amount of compensation shall be deducted from any  
 20 compensation due for permanent disfigurement.

21 With respect to disablements in the following schedule occurring on  
 22 and after July 1, 1991, the employee shall receive in addition to  
 23 temporary total disability benefits, not exceeding one hundred  
 24 twenty-five (125) weeks on account of the disablement, compensation  
 25 in an amount determined under the following schedule to be paid  
 26 weekly at a rate of sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the  
 27 employee's average weekly wages during the fifty-two (52) weeks  
 28 immediately preceding the week in which the disablement occurred:

29 (1) Amputation: For the loss by separation of the thumb, twelve  
 30 (12) degrees of permanent impairment; of the index finger, eight  
 31 (8) degrees of permanent impairment; of the second finger, seven  
 32 (7) degrees of permanent impairment; of the third or ring finger,  
 33 six (6) degrees of permanent impairment; of the fourth or little  
 34 finger, four (4) degrees of permanent impairment; of the hand by  
 35 separation below the elbow joint, forty (40) degrees of permanent  
 36 impairment; of the arm above the elbow, fifty (50) degrees of  
 37 permanent impairment; of the big toe, twelve (12) degrees of  
 38 permanent impairment; of the second toe, six (6) degrees of  
 39 permanent impairment; of the third toe, four (4) degrees of  
 40 permanent impairment; of the fourth toe, three (3) degrees of  
 41 permanent impairment; of the fifth or little toe, two (2) degrees of  
 42 permanent impairment; of separation of the foot below the knee



joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, (10) ten degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation.



However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars



(500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50),



one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1, 2000, seven hundred sixty-two dollars (\$762).

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or



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1 disability from an accidental injury other than an occupational disease  
 2 in another employment than that in which he suffered a subsequent  
 3 disability from an occupational disease, such as herein specified, the  
 4 employee shall be entitled to compensation for the subsequent  
 5 disability in the same amount as if the previous impairment or  
 6 disability had not occurred. However, if the permanent impairment or  
 7 disability resulting from an occupational disease for which  
 8 compensation is claimed results only in the aggravation or increase of  
 9 a previously sustained permanent impairment from an occupational  
 10 disease or physical condition regardless of the source or cause of such  
 11 previously sustained impairment from an occupational disease or  
 12 physical condition, the board shall determine the extent of the  
 13 previously sustained permanent impairment from an occupational  
 14 disease or physical condition as well as the extent of the aggravation or  
 15 increase resulting from the subsequent permanent impairment or  
 16 disability, and shall award compensation only for that part of said  
 17 occupational disease or physical condition resulting from the  
 18 subsequent permanent impairment. An amputation of any part of the  
 19 body or loss of any or all of the vision of one (1) or both eyes caused by  
 20 an occupational disease shall be considered as a permanent impairment  
 21 or physical condition.

22 (l) If an employee suffers a disablement from occupational disease  
 23 for which compensation is payable while the employee is still receiving  
 24 or entitled to compensation for a previous injury by accident or  
 25 disability by occupational disease in the same employment, he shall not  
 26 at the same time be entitled to compensation for both, unless it be for  
 27 a permanent injury, such as specified in subsection (g)(1), (g)(2),  
 28 (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to  
 29 compensation for that disability and from the time of that disability  
 30 which will cover the longest period and the largest amount payable  
 31 under this chapter.

32 (m) If an employee receives a permanent disability from  
 33 occupational disease such as specified in subsection (g)(1), (g)(2),  
 34 (g)(3), (g)(6), or (g)(7), after having sustained another such permanent  
 35 disability in the same employment the employee shall be entitled to  
 36 compensation for both such disabilities, but the total compensation  
 37 shall be paid by extending the period and not by increasing the amount  
 38 of weekly compensation and, when such previous and subsequent  
 39 permanent disabilities, in combination result in total permanent  
 40 disability or permanent total impairment, compensation shall be  
 41 payable for such permanent total disability or impairment, but  
 42 payments made for the previous disability or impairment shall be





deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(o) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(p) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(q) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor



1 person. The payment of compensation, due to any person eighteen (18)  
2 years of age or over, may be made directly to such person.

3 (r) If an employee, or a dependent, is mentally incompetent, or a  
4 minor at the time when any right or privilege accrues to the employee  
5 under this chapter, the employee's guardian or trustee may, in the  
6 employee's behalf, claim and exercise such right and privilege.

7 (s) All compensation payments named and provided for in this  
8 section, shall mean and be defined to be for only such occupational  
9 diseases and disabilities therefrom as are proved by competent  
10 evidence, of which there are or have been objective conditions or  
11 symptoms proven, not within the physical or mental control of the  
12 employee himself.

13 SECTION 11. IC 22-3-7-32 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 32. (a) No proceedings  
15 for compensation under this chapter shall be maintained unless notice  
16 has been given to the employer of disablement arising from an  
17 occupational disease as soon as practicable after the date of  
18 disablement, **subject to the notice requirements for seamen**  
19 **required under IC 22-3-7-9.1.** No defect or inaccuracy of such notices  
20 shall be a bar to compensation unless the employer proves that he is  
21 unduly prejudiced in such proceedings by such defect or inaccuracy.

22 (b) The notice provided for in subsection (a) shall state the name  
23 and address of the employee and the nature and cause of the  
24 occupational disease and disablement or death therefrom, and shall be  
25 signed by the disabled employee, or by someone in his behalf, or by  
26 one (1) or more of the dependents, in case of death, or by some person  
27 in their behalf. Such notice may be served personally upon the  
28 employer or upon any foreman, superintendent, or manager of the  
29 employer to whose orders the disabled or deceased employee was  
30 required to conform or upon any agent of the employer upon whom a  
31 summons in a civil action may be served under the laws of the state or  
32 may be sent to the employer by registered letter, addressed to his last  
33 known residence or place of business.

34 (c) No proceedings by an employee for compensation under this  
35 chapter shall be maintained unless claim for compensation shall be  
36 filed by the employee with the worker's compensation board within two  
37 (2) years after the date of the disablement.

38 (d) No proceedings by dependents of a deceased employee for  
39 compensation for death under this chapter shall be maintained unless  
40 claim for compensation shall be filed by the dependents with the  
41 worker's compensation board within two (2) years after the date of  
42 death.



(e) No limitation of time provided in this chapter shall run against any person who is mentally incompetent or a minor dependent, so long as he has no guardian or trustee.

SECTION 12. IC 22-3-7-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE July 1, 1999]: Sec. 34. (a) Every employer bound by the compensation provisions of this chapter, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, ~~and~~ state commissions, **and employers holding an owner's license issued under IC 4-33-6** shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in this chapter, or procure from the worker's compensation board a certificate authorizing the employer to carry such risk without insurance. While that insurance or certificate remains in force, the employer, or those conducting the employer's business, and the employer's occupational disease insurance carrier shall be liable to any employee and the employee's dependents for disablement or death from occupational disease arising out of and in the course of employment only to the extent and in the manner specified in this chapter.

(b) Every employer who, by election, is bound by the compensation provisions of this chapter, except those exempted from the provisions by subsection (a), shall:

(1) insure and keep insured the employer's liability under this chapter in some corporation, association, or organization authorized to transact the business of worker's compensation insurance in this state; or

(2) furnish to the worker's compensation board satisfactory proof of the employer's financial ability to pay the compensation in the amount and manner and when due as provided for in this chapter.

In the latter case the board may require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred.

(c) Every employer required to carry insurance under this section shall file with the worker's compensation board in the form prescribed by it, within ten (10) days after the termination of the employer's insurance by expiration or cancellation, evidence of the employer's compliance with subsection (b) and other provisions relating to the insurance under this chapter. The venue of all criminal actions under this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute all violations upon written request of the board. The violations shall be prosecuted in the name of



1 the state.

2 (d) Whenever an employer has complied with subsection (b)  
3 relating to self-insurance, the worker's compensation board shall issue  
4 to the employer a certificate which shall remain in force for a period  
5 fixed by the board, but the board may, upon at least thirty (30) days  
6 notice, and a hearing to the employer, revoke the certificate, upon  
7 presentation of satisfactory evidence for the revocation. After the  
8 revocation, the board may grant a new certificate to the employer upon  
9 the employer's petition, and satisfactory proof of the employer's  
10 financial ability.

11 (e)(1) Subject to the approval of the worker's compensation board,  
12 any employer may enter into or continue any agreement with the  
13 employer's employees to provide a system of compensation, benefit, or  
14 insurance in lieu of the compensation and insurance provided by this  
15 chapter. A substitute system may not be approved unless it confers  
16 benefits upon employees and their dependents at least equivalent to the  
17 benefits provided by this chapter. It may not be approved if it requires  
18 contributions from the employees unless it confers benefits in addition  
19 to those provided under this chapter, which are at least commensurate  
20 with such contributions.

21 (e)(2) The substitute system may be terminated by the worker's  
22 compensation board on reasonable notice and hearing to the interested  
23 parties, if it appears that the same is not fairly administered or if its  
24 operation shall disclose latent defects threatening its solvency, or if for  
25 any substantial reason it fails to accomplish the purpose of this chapter.  
26 On termination, the board shall determine the proper distribution of all  
27 remaining assets, if any, subject to the right of any party in interest to  
28 take an appeal to the court of appeals.

29 (f)(1) No insurer shall enter into or issue any policy of insurance  
30 under this chapter until its policy form has been submitted to and  
31 approved by the worker's compensation board. The board shall not  
32 approve the policy form of any insurance company until the company  
33 shall file with it the certificate of the insurance commissioner showing  
34 that the company is authorized to transact the business of worker's  
35 compensation insurance in Indiana. The filing of a policy form by any  
36 insurance company or reciprocal insurance association with the board  
37 for approval constitutes on the part of the company or association a  
38 conclusive and unqualified acceptance of each of the compensation  
39 provisions of this chapter, and an agreement by it to be bound by the  
40 compensation provisions of this chapter.

41 (f)(2) All policies of insurance companies and of reciprocal  
42 insurance associations, insuring the payment of compensation under



1 this chapter, shall be conclusively presumed to cover all the employees  
 2 and the entire compensation liability of the insured under this chapter  
 3 in all cases in which the last day of the exposure rendering the  
 4 employer liable is within the effective period of such policy.

5 (f)(3) Any provision in any such policy attempting to limit or modify  
 6 the liability of the company or association insuring the same shall be  
 7 wholly void.

8 (f)(4) Every policy of any company or association shall be deemed  
 9 to include the following provisions:

10 "(A) The insurer assumes in full all the obligations to pay  
 11 physician's fees, nurse's charges, hospital supplies, burial  
 12 expenses, compensation or death benefits imposed upon or  
 13 accepted by the insured under this chapter.

14 (B) This policy is subject to the provisions of this chapter relative  
 15 to the liability of the insured to pay physician's fees, nurse's  
 16 charges, hospital services, hospital supplies, burial expenses,  
 17 compensation or death benefits to and for such employees, the  
 18 acceptance of such liability by the insured, the adjustment, trial  
 19 and adjudication of claims for such physician's fees, nurse's  
 20 charges, hospital services, hospital supplies, burial expenses,  
 21 compensation, or death benefits.

22 (C) Between this insurer and the employee, notice to or  
 23 knowledge of the occurrence of the disablement on the part of the  
 24 insured (the employer) shall be notice or knowledge thereof, on  
 25 the part of the insurer. The jurisdiction of the insured (the  
 26 employer) for the purpose of this chapter is the jurisdiction of this  
 27 insurer, and this insurer shall in all things be bound by and shall  
 28 be subject to the awards, judgments and decrees rendered against  
 29 the insured (the employer) under this chapter.

30 (D) This insurer will promptly pay to the person entitled to the  
 31 same all benefits conferred by this chapter, including all  
 32 physician's fees, nurse's charges, hospital services, hospital  
 33 supplies, burial expenses, and all installments of compensation or  
 34 death benefits that may be awarded or agreed upon under this  
 35 chapter. The obligation of this insurer shall not be affected by any  
 36 default of the insured (the employer) after disablement or by any  
 37 default in giving of any notice required by this policy, or  
 38 otherwise. This policy is a direct promise by this insurer to the  
 39 person entitled to physician's fees, nurse's charges, fees for  
 40 hospital services, charges for hospital services, charges for  
 41 hospital supplies, charges for burial, compensation, or death  
 42 benefits, and shall be enforceable in the name of the person.



(E) Any termination of this policy by cancellation shall not be effective as to employees of the insured covered hereby unless at least thirty (30) days prior to the taking effect of such cancellation, a written notice giving the date upon which such termination is to become effective has been received by the worker's compensation board of Indiana at its office in Indianapolis, Indiana.

(F) This policy shall automatically expire one (1) year from the effective date of the policy, unless the policy covers a period of three (3) years, in which event, it shall automatically expire three (3) years from the effective date of the policy. The termination either of a one (1) year or a three (3) year policy, is effective as to the employees of the insured covered by the policy."

(f)(5) All claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees, or burial expenses may be made directly against either the employer or the insurer or both, and the award of the worker's compensation board may be made against either the employer or the insurer or both.

(f)(6) If any insurer shall fail to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail to comply with this chapter, the worker's compensation board shall revoke the approval of its policy forms, and shall not accept any further proofs of insurance from it until it shall have paid the award or judgment or complied with this chapter, and shall have resubmitted its policy form and received the approval of the policy by the industrial board.

(g) No policy of insurance covering the liability of an employer for worker's compensation shall be construed to cover the liability of the employer under this chapter for any occupational disease unless the liability is expressly accepted by the insurance carrier issuing the policy and is endorsed in that policy. The insurance or security in force to cover compensation liability under this chapter shall be separate from the insurance or security under IC 22-3-2 through IC 22-3-6. Any insurance contract covering liability under either part of this article need not cover any liability under the other.

(h) For the purpose of complying with subsection (b), groups of employers are authorized to form mutual insurance associations or reciprocal or interinsurance exchanges subject to any reasonable conditions and restrictions fixed by the department of insurance. This subsection does not apply to mutual insurance associations and reciprocal or interinsurance exchanges formed and operating on or before January 1, 1991, which shall continue to operate subject to the



provisions of this chapter and to such reasonable conditions and restrictions as may be fixed by the worker's compensation board.

(i) Membership in a mutual insurance association or a reciprocal or interinsurance exchange so proved, together with evidence of the payment of premiums due, is evidence of compliance with subsection (b).

(j) Any person bound under the compensation provisions of this chapter, contracting for the performance of any work exceeding one thousand dollars (\$1,000) in value, in which the hazard of an occupational disease exists, by a contractor subject to the compensation provisions of this chapter without exacting from the contractor a certificate from the worker's compensation board showing that the contractor has complied with subsections (a), (b), and (c), shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to occupational disease arising out of and in the course of the performance of the work covered by such contract.

(k) Any contractor who sublets any contract for the performance of any work to a subcontractor subject to the compensation provisions of this chapter, without obtaining a certificate from the worker's compensation board showing that the subcontractor has complied with subsections (a), (b), and (c), is liable to the same extent as the subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expense on account of the injury or death of any employee of the subcontractor due to occupational disease arising out of and in the course of the performance of the work covered by the subcontract.

(l) A person paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses, under subsection (j) or (k), may recover the amount paid or to be paid from any person who would otherwise have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(m) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (j), shall fix the order in which such parties shall be exhausted, beginning with the immediate employer and, in an award under subsection (k), shall determine whether the subcontractor has the financial ability to



1 pay the compensation and medical expenses when due and, if not, shall  
2 order the contractor to pay the compensation and medical expenses.

3 **(n) An employer holding an owner's license issued under**  
4 **IC 4-33-6 shall procure a certificate authorizing the employer to**  
5 **carry the risk without insurance from the worker's compensation**  
6 **board. The employer holding a license issued under IC 4-33-6 is**  
7 **liable for payment of disability compensation under IC 22-3-7 only**  
8 **when the employee has completed and filed a notice to receive**  
9 **disability compensation under IC 22-3-7 in the manner provided**  
10 **in IC 22-3-7-9.1.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1030, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-3-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Every employer who is bound by the compensation provisions of IC 22-3-2 through IC 22-3-6, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, state commissions, banks, trust companies, ~~and~~ building and loan associations, **and employers holding an owner's license issued under IC 4-33-6**, shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in IC 22-3-3, or procure from the worker's compensation board a certificate authorizing the employer to carry such risk without insurance. While such insurance or such certificate remains in force, the employer or those conducting the employer's business and the employer's worker's compensation insurance carrier shall be liable to any employee and the employee's dependents for personal injury or death by accident arising out of and in the course of employment only to the extent and in the manner specified in IC 22-3-2 through IC 22-3-6.

(b) The state may not purchase worker's compensation insurance. The state may establish a program of self-insurance to cover its liability under this article. The state may administer its program of self-insurance or may contract with any private agency, business firm, limited liability company, or corporation to administer any part of the program. The state department of insurance may, in the manner prescribed by IC 4-22-2, adopt the rules necessary to implement the state's program of self-insurance.

(c) **An employer holding an owner's license issued under IC 4-33-6 shall procure a certificate authorizing the employer to carry the risk without insurance from the worker's compensation board. The employer holding a license issued under IC 4-33-6 is liable for payment of disability compensation under IC 22-3-2 through 22-3-6 only when the employee has completed and filed a notice to receive disability compensation under IC 22-3-2 through 22-3-6 in the manner provided in IC 22-3-2-19.1. "**

Page 2, line 6, delete "self-propelled excursion boat" and insert

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"riverboat as defined in IC 4-33-2-17".

Page 2, line 8, after ";" insert "or".

Page 2, line 9, delete "; or" and insert ".".

Page 2, delete line 10.

Page 2, between lines 13 and 14, begin a new paragraph and insert:

**"(d) A disabled seaman or representative must file a notice on a form prescribed by the worker's compensation board to receive disability compensation:**

**(1) exclusively under the Jones Act; or**

**(2) under IC 22-3-2 through IC 22-3-6 and the Jones Act.**

**(e) A disabled seaman or representative must file the notice in prescribed form with the worker's compensation board by registered mail postmarked by the thirtieth day of the disability, or by personal delivery to any office of the worker's compensation board on or before the thirtieth day of the disability. The disabled seaman or representative also must notify the employer in the manner provided by IC 22-3-3-1(a), unless the employer has actual notice of the injury. Compensation shall be paid in the manner provided by IC 22-3-3-7. However, compensation shall not be paid to the disabled seaman or the seaman's dependents for any days earlier than the date the notice is provided to the workers' compensation board."**

Page 2, line 14, delete "(d)" and insert "(f)".

Page 2, line 14, delete "or medical benefits".

Page 2, line 17, after "compensation" delete ",".

Page 2, line 17, after "award" delete ", or as medical benefits otherwise" and insert ".".

Page 2, line 18, delete "payable under IC 22-3-2 through IC 22-3-6."

Page 2, between lines 21 and 22, begin a new paragraph and insert:

**"SECTION 5. IC 22-3-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Unless the employer or his representative shall have actual knowledge of the occurrence of an injury or death at the time thereof or shall acquire such knowledge afterward, the injured employee or his dependents, as soon as practicable after the injury or death resulting therefrom, shall give written notice to the employer of such injury or death.**

**(b) Unless such notice is given or knowledge acquired within thirty (30) days from the date of the injury or death, no compensation shall be paid until and from the date such notice is given or knowledge obtained. Seamen are subject to the notice requirements and payment restrictions contained in IC 22-3-2-19.1. No lack of**

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knowledge by the employer or his representative, and no want, failure, defect or inaccuracy of the notice shall bar compensation, unless the employer shall show that he is prejudiced by such lack of knowledge or by such want, failure, defect or inaccuracy of the notice, and then only to the extent of such prejudices."

Page 2, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 6. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth (8th) day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. **Compensation for seamen shall not be paid for any days earlier than the date of notification received by the worker's compensation board, as provided in IC 22-3-2-19.1.**

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;



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(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(c) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to any employment;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; or

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the

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opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee."

Page 7, line 17, delete "self-propelled excursion boat" and insert **"riverboat as defined in IC 4-33-2-17"**.

Page 7, line 19, after ";" insert **"or"**.

Page 7, line 20, delete "; or" and insert **"."**.

Page 7, delete line 22.

Page 7, between lines 24 and 25, begin a new paragraph and insert:

**"(d) A disabled seaman or representative must file a notice on a form prescribed by the worker's compensation board to receive disability compensation:**

**(1) exclusively under the Jones Act; or**

**(2) under IC 22-3-7 and the Jones Act.**

**This notice shall be filed contemporaneously with any notice filed under IC 22-3-7-30.**

**(e) A disabled seaman or representative must file the notice in prescribed form with the worker's compensation board by registered mail postmarked by the thirtieth day of the disability, or by personal delivery to any office of the worker's compensation board on or before the thirtieth day of the disability. The disabled seaman or representative also must notify the employer in the manner provided by IC 22-3-7-32, unless the employer has actual notice of the injury. Compensation shall be paid in the manner provided by IC 22-3-7. However, compensation shall not be paid to the disabled seaman or the seaman's dependents for any days earlier than the date the notice is provided to the workers' compensation board."**

Page 7, line 25, delete "(d)" and insert **"(f)"**.

Page 7, line 25, delete "or medical benefits".



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Page 7, line 28, after "compensation" delete ",."

Page 7, line 28, after "award" delete ", or as medical benefits otherwise" and insert "."

Page 7, line 29 delete "payable under this chapter."

Page 7, after line 31, begin a new paragraph and insert:

"SECTION 10. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) **Subject to the exception for seamen as provided in IC 22-3-7-9.1**, compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
  - (2) the status of the investigation on the date the petition is filed;
  - (3) the facts or circumstances that are necessary to make a determination; and
  - (4) a timetable for the completion of the remaining investigation.
- An employer who fails to comply with this section is subject to a civil

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penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent

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medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the employee's average weekly wages, up to one hundred thirty-five dollars (\$135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the employee's average weekly wages, as defined

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in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the later period shall be included as part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which he is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule,

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the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of his average weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183)

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average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of

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both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

- (1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger,



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six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear,



fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, (10) ten degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment



except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per

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degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).



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(8) With respect to disablements occurring on or after July 1, 2000, seven hundred sixty-two dollars (\$762).

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which he suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, he shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from

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occupational disease such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7), after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(o) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(p) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.



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(q) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(r) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

SECTION 11. IC 22-3-7-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 32. (a) No proceedings for compensation under this chapter shall be maintained unless notice has been given to the employer of disablement arising from an occupational disease as soon as practicable after the date of disablement, **subject to the notice requirements for seamen required under IC 22-3-7-9.1.** No defect or inaccuracy of such notices shall be a bar to compensation unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy.

(b) The notice provided for in subsection (a) shall state the name and address of the employee and the nature and cause of the occupational disease and disablement or death therefrom, and shall be signed by the disabled employee, or by someone in his behalf, or by one (1) or more of the dependents, in case of death, or by some person in their behalf. Such notice may be served personally upon the employer or upon any foreman, superintendent, or manager of the employer to whose orders the disabled or deceased employee was required to conform or upon any agent of the employer upon whom a summons in a civil action may be served under the laws of the state or may be sent to the employer by registered letter, addressed to his last



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known residence or place of business.

(c) No proceedings by an employee for compensation under this chapter shall be maintained unless claim for compensation shall be filed by the employee with the worker's compensation board within two (2) years after the date of the disablement.

(d) No proceedings by dependents of a deceased employee for compensation for death under this chapter shall be maintained unless claim for compensation shall be filed by the dependents with the worker's compensation board within two (2) years after the date of death.

(e) No limitation of time provided in this chapter shall run against any person who is mentally incompetent or a minor dependent, so long as he has no guardian or trustee.

SECTION 12. IC 22-3-7-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE July 1, 1999]: Sec. 34. (a) Every employer bound by the compensation provisions of this chapter, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, ~~and~~ state commissions, **and employers holding an owner's license issued under IC 4-33-6** shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in this chapter, or procure from the worker's compensation board a certificate authorizing the employer to carry such risk without insurance. While that insurance or certificate remains in force, the employer, or those conducting the employer's business, and the employer's occupational disease insurance carrier shall be liable to any employee and the employee's dependents for disablement or death from occupational disease arising out of and in the course of employment only to the extent and in the manner specified in this chapter.

(b) Every employer who, by election, is bound by the compensation provisions of this chapter, except those exempted from the provisions by subsection (a), shall:

(1) insure and keep insured the employer's liability under this chapter in some corporation, association, or organization authorized to transact the business of worker's compensation insurance in this state; or

(2) furnish to the worker's compensation board satisfactory proof of the employer's financial ability to pay the compensation in the amount and manner and when due as provided for in this chapter.

In the latter case the board may require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred.



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(c) Every employer required to carry insurance under this section shall file with the worker's compensation board in the form prescribed by it, within ten (10) days after the termination of the employer's insurance by expiration or cancellation, evidence of the employer's compliance with subsection (b) and other provisions relating to the insurance under this chapter. The venue of all criminal actions under this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute all violations upon written request of the board. The violations shall be prosecuted in the name of the state.

(d) Whenever an employer has complied with subsection (b) relating to self-insurance, the worker's compensation board shall issue to the employer a certificate which shall remain in force for a period fixed by the board, but the board may, upon at least thirty (30) days notice, and a hearing to the employer, revoke the certificate, upon presentation of satisfactory evidence for the revocation. After the revocation, the board may grant a new certificate to the employer upon the employer's petition, and satisfactory proof of the employer's financial ability.

(e)(1) Subject to the approval of the worker's compensation board, any employer may enter into or continue any agreement with the employer's employees to provide a system of compensation, benefit, or insurance in lieu of the compensation and insurance provided by this chapter. A substitute system may not be approved unless it confers benefits upon employees and their dependents at least equivalent to the benefits provided by this chapter. It may not be approved if it requires contributions from the employees unless it confers benefits in addition to those provided under this chapter, which are at least commensurate with such contributions.

(e)(2) The substitute system may be terminated by the worker's compensation board on reasonable notice and hearing to the interested parties, if it appears that the same is not fairly administered or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter. On termination, the board shall determine the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the court of appeals.

(f)(1) No insurer shall enter into or issue any policy of insurance under this chapter until its policy form has been submitted to and approved by the worker's compensation board. The board shall not approve the policy form of any insurance company until the company

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shall file with it the certificate of the insurance commissioner showing that the company is authorized to transact the business of worker's compensation insurance in Indiana. The filing of a policy form by any insurance company or reciprocal insurance association with the board for approval constitutes on the part of the company or association a conclusive and unqualified acceptance of each of the compensation provisions of this chapter, and an agreement by it to be bound by the compensation provisions of this chapter.

(f)(2) All policies of insurance companies and of reciprocal insurance associations, insuring the payment of compensation under this chapter, shall be conclusively presumed to cover all the employees and the entire compensation liability of the insured under this chapter in all cases in which the last day of the exposure rendering the employer liable is within the effective period of such policy.

(f)(3) Any provision in any such policy attempting to limit or modify the liability of the company or association insuring the same shall be wholly void.

(f)(4) Every policy of any company or association shall be deemed to include the following provisions:

"(A) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital supplies, burial expenses, compensation or death benefits imposed upon or accepted by the insured under this chapter.

(B) This policy is subject to the provisions of this chapter relative to the liability of the insured to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation or death benefits to and for such employees, the acceptance of such liability by the insured, the adjustment, trial and adjudication of claims for such physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits.

(C) Between this insurer and the employee, notice to or knowledge of the occurrence of the disablement on the part of the insured (the employer) shall be notice or knowledge thereof, on the part of the insurer. The jurisdiction of the insured (the employer) for the purpose of this chapter is the jurisdiction of this insurer, and this insurer shall in all things be bound by and shall be subject to the awards, judgments and decrees rendered against the insured (the employer) under this chapter.

(D) This insurer will promptly pay to the person entitled to the same all benefits conferred by this chapter, including all physician's fees, nurse's charges, hospital services, hospital

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supplies, burial expenses, and all installments of compensation or death benefits that may be awarded or agreed upon under this chapter. The obligation of this insurer shall not be affected by any default of the insured (the employer) after disablement or by any default in giving of any notice required by this policy, or otherwise. This policy is a direct promise by this insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for hospital services, charges for hospital supplies, charges for burial, compensation, or death benefits, and shall be enforceable in the name of the person.

(E) Any termination of this policy by cancellation shall not be effective as to employees of the insured covered hereby unless at least thirty (30) days prior to the taking effect of such cancellation, a written notice giving the date upon which such termination is to become effective has been received by the worker's compensation board of Indiana at its office in Indianapolis, Indiana.

(F) This policy shall automatically expire one (1) year from the effective date of the policy, unless the policy covers a period of three (3) years, in which event, it shall automatically expire three (3) years from the effective date of the policy. The termination either of a one (1) year or a three (3) year policy, is effective as to the employees of the insured covered by the policy."

(f)(5) All claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees, or burial expenses may be made directly against either the employer or the insurer or both, and the award of the worker's compensation board may be made against either the employer or the insurer or both.

(f)(6) If any insurer shall fail to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail to comply with this chapter, the worker's compensation board shall revoke the approval of its policy forms, and shall not accept any further proofs of insurance from it until it shall have paid the award or judgment or complied with this chapter, and shall have resubmitted its policy form and received the approval of the policy by the industrial board.

(g) No policy of insurance covering the liability of an employer for worker's compensation shall be construed to cover the liability of the employer under this chapter for any occupational disease unless the liability is expressly accepted by the insurance carrier issuing the policy and is endorsed in that policy. The insurance or security in force to cover compensation liability under this chapter shall be separate

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from the insurance or security under IC 22-3-2 through IC 22-3-6. Any insurance contract covering liability under either part of this article need not cover any liability under the other.

(h) For the purpose of complying with subsection (b), groups of employers are authorized to form mutual insurance associations or reciprocal or interinsurance exchanges subject to any reasonable conditions and restrictions fixed by the department of insurance. This subsection does not apply to mutual insurance associations and reciprocal or interinsurance exchanges formed and operating on or before January 1, 1991, which shall continue to operate subject to the provisions of this chapter and to such reasonable conditions and restrictions as may be fixed by the worker's compensation board.

(i) Membership in a mutual insurance association or a reciprocal or interinsurance exchange so proved, together with evidence of the payment of premiums due, is evidence of compliance with subsection (b).

(j) Any person bound under the compensation provisions of this chapter, contracting for the performance of any work exceeding one thousand dollars (\$1,000) in value, in which the hazard of an occupational disease exists, by a contractor subject to the compensation provisions of this chapter without exacting from the contractor a certificate from the worker's compensation board showing that the contractor has complied with subsections (a), (b), and (c), shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to occupational disease arising out of and in the course of the performance of the work covered by such contract.

(k) Any contractor who sublets any contract for the performance of any work to a subcontractor subject to the compensation provisions of this chapter, without obtaining a certificate from the worker's compensation board showing that the subcontractor has complied with subsections (a), (b), and (c), is liable to the same extent as the subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expense on account of the injury or death of any employee of the subcontractor due to occupational disease arising out of and in the course of the performance of the work covered by the subcontract.

(l) A person paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses, under subsection (j) or (k), may recover the amount paid or to be paid from any person who would otherwise have been liable for the payment thereof and may, in

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addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(m) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (j), shall fix the order in which such parties shall be exhausted, beginning with the immediate employer and, in an award under subsection (k), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

**(n) An employer holding an owner's license issued under IC 4-33-6 shall procure a certificate authorizing the employer to carry the risk without insurance from the worker's compensation board. The employer holding a license issued under IC 4-33-6 is liable for payment of disability compensation under IC 22-3-7 only when the employee has completed and filed a notice to receive disability compensation under IC 22-3-7 in the manner provided in IC 22-3-7-9.1."**

Renumber all sections consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1030 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 10, nays 3.

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